

UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
DURHAM DIVISION

IN THE MATTER OF:  
**CHARLES H. PHILLIPS,**  
**DORRIS B. PHILLIPS,**

Debtor(s)

Case No: B-1081283 C-13D

OBJECTION BY STANDING TRUSTEE TO CONFIRMATION OF PLAN

NOW COMES Richard M. Hutson, II, Standing Trustee ("Trustee") and respectfully objects to confirmation of the Debtors' plan pursuant to 11 U.S.C. §1325 and shows unto the Court the following:

1. The Debtors filed a petition under Title 11 of the United States Code, Chapter 13, on July 22, 2010, in the United States Bankruptcy Court for the Middle District of North Carolina.
2. On July 22, 2010, Richard M. Hutson, II, was appointed as Trustee.
3. This Court has proper and personal jurisdiction of the subject matter hereof and over the parties pursuant to 28 U.S.C. §§151, 157 and 1334, and the Standing Order entered by the United States District Court for the Middle District of North Carolina and this is a core proceeding within 28 U.S.C. §157(b).
4. The petition filed by the Debtors proposes a monthly plan payment of \$1,622.00 per month for a period of 60 months. Unsecured creditors will not receive any dividend. There is approximately \$95,993.00 of unsecured debt listed in Schedule "F".
5. The Debtors' plan provides that the claim of Beneficial Mortgage ("Beneficial") representing a first deed of trust on the Debtors' real property will be paid as a long-term continuing debt pursuant to 11 U.S.C. §1322(b)(5) by disbursements through the Trustee and that any arrearage will be treated as a secured claim and also paid through the Trustee's office. The Debtors listed payments on the mortgage claim in the amounts of \$1,270 per month and arrearage of \$11,392.00 in their petition.
6. Beneficial has filed a claim secured by the deed of trust in the amount of \$167,323.48 and has asserted monthly mortgage payments of \$1,449.75 and arrearage of \$19,971.42 through October of 2010.

7. The Trustee objects to confirmation of the plan in that the Debtors' proposed plan payments are not sufficient to satisfy the long-term debt of Beneficial, the arrearage claim of Beneficial, and all other secured or priority claims within the 60 month time limitation of 11 U.S.C. §1322(d).

WHEREFORE, the Trustee prays the Court for an Order as follows:

1. That the Debtors' plan not be confirmed in that the plan does not comply with 11 U.S.C. §1325 and the case be dismissed for cause pursuant to 11 U.S.C. §1307;
2. In the alternative, that the Debtors' plan be modified to provide for monthly plan payments of \$1,955; or
3. For such other and further relief as the Court may deem just or proper.

This the 15<sup>th</sup> day of September, 2010.

/s/ Benjamin E. Lovell  
Benjamin E. Lovell  
Attorney for the Trustee  
State Bar No: 23266  
P.O. Box 3613  
Durham, N.C. 27702

CERTIFICATE OF SERVICE

This is to certify that I have this day served a copy of the foregoing document upon John T. Orcutt, Esq., 6616-203 Six Forks Rd., Raleigh, NC 27615, Charles and Dorris Phillips, 1100 Lansing Ave., Durham, NC 27713, and Michael D. West, Esq., U.S. Bankruptcy Administrator, PO Box 1828, Greensboro, NC 27402 by depositing a copy of same in the United States Mail, postage prepaid, and in the manner prescribed by Rule 5 of the Federal Rules of Civil Procedure.

This 15<sup>th</sup> of September, 2010.

s/Benjamin E. Lovell  
Benjamin E. Lovell, Esq.  
Attorney for the Standing Trustee